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ABSTRACT

The document provides background readings on the Missouri small-claims-court process and a sample case for a mock trial. Background materials explain what a small claims court is, who can sue in small claims court, and monetary limitations (generally up to $500). Readers are advised of the seriousness of going to court and the need to try to settle before filing suit. Instructions for preparing a claim stress the need for the correct legal name and address of the person being sued and, if under 18, the necessity of bringing someone into court who will act on the claimant's behalf. Advice to the defendant includes understanding the claim and filing counterclaims based on either the same or another transaction. Continuances, out of court settlements, the day in court, appeals, collecting, and garnishing are also discussed. The sample case depicts a tenant suing his landlord for return of his rent deposit. Forms provided include plaintiff and defendant checklists, requests for execution, dismissal, satisfaction of judgment, a summons, petition for a minor, and counter claims. (KC)

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HOW TO PLAN & CONDUCT A MOCK TRIAL

The Small Claims Court

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WHY A MOCK TRIAL?

A mock trial is a valuable learning experience in addition to being fun. By participating in and analyzing a mock trial a student learns about courtroom procedures, gains a basic understanding of the legal mechanism through which disputes can be resolved, develops skills in questioning, critical thinking and oral advocacy, and gains significant insight into the substantive areas of the law being studied.

Participation in a mock trial helps students understand the various roles in the judicial system and highlights the difficult conflicts encountered daily by the persons in those positions.

Mock trials also give students practical knowledge of trials and courts should they ever be involved in a real trial or other court proceeding.

Community resource persons and field experiences are easily incorporated into the program. Visits to local courts make the activity more meaningful, as do invitations to judges and attorneys to participate and share their knowledge and experience.

Mock trials should not be attempted without the help of an attorney. Local attorneys are available and willing to answer both teacher and student questions. For information about attorneys available, contact the Field Director, The Missouri Bar, P.O. Box 119, Jefferson City, MO 65102, (314) 635-4128.

Jones v. Smith

Role Players

Mr. Jones - tenant/plaintiff
Mr. Smith - landlord/defendant
Miss Long - witness for Mr. Jones; friend who helped him move out of the apartment
Mr. Johnson - witness for Mr. Smith; repairman who made repairs in the apartment Mr. Jones rented
Judge

Documents Needed

Mr. Jones' cancelled checks
Mr. Jones' letter asking for return of security deposit
Mr. Smith's receipts for repair work

Roles of the Plaintiff and Defendant

First the plaintiff tells his side of the story, in his own words, to the judge.

The plaintiff may call any witnesses and/or present any relevant documents.

The defendant may cross-examine, or ask questions of, the plaintiff's witnesses.

The defendant then has a turn to tell the judge his side of the story. He may call witnesses or present relevant documents as evidence.

The plaintiff can cross-examine the defendant's witnesses.

Role of the Judge

The judge must be aggressive in asking questions during the trial. He may ask questions of the parties and the witnesses. The judge must discern as many facts as possible, and decide the case based solely on the facts presented.

TEACHERS' NOTE:

As a result of the Judicial Article, effective January 1, 1979, the names of the various courts were changed. Any reference in the enclosed materials made to the "Magistrate Court" should be changed to the "Associate Division of the Circuit Court." The jurisdiction and function of the court is the same; only the name has been changed.

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LEARNING HOW TO TRY A LAWSUIT IN MISSOURI'S SMALL CLAIMS COURT

After reading the following description of the procedures involved in the Small Claims Court, an appropriate factual situation should be developed and various students assigned to play the parts of the plaintiff, defendant, witnesses and judge. You may want to serve as Clerk of the Associate Circuit Court, and as such, be the advisor of how the parties are to proceed with their case. If you have any technical questions which you are unable to answer after reading the following description, you should call the associate circuit clerk, explain your activity and request the answer to your question.

Some examples of small claims cases are the following:

(1) A tenant sues a landlord for a refund of a $200 damage deposit;

(2) A driver of the car that backed into a neighbor's new camper won't pay the $235 repair bill, so the neighbor files suit to recover costs;

(3) The new roof a consumer just had installed starts to leak. The contractor won't repair it so the consumer sues him for the cost of repairs.

(4) A dissatisfied customer sues a department store because the $50 radio the person bought won't work, and the store refuses to exchange it or repair it.

You may want to develop your own case and make it as simple or as complicated as you wish.

Explanation of Missouri's Small Claims Court

Within the Missouri judicial system there now exists a small claims court which is intended to give the citizens of the State of Missouri personal access to the courts for purposes of solving minor disputes. Such "small claims" in the past were frequently not pursued because the cost of filing and attorney's fees may have been greater than the recovery being sought.

The small claims court is a part of the associate circuit courts in Missouri wherein time is set aside to allow a person with a dispute involving $500 or less to present his/her case to a judge. It is not necessary to have an attorney in small claims court, but either the plaintiff or the defendant may be represented by an attorney if they desire. The purpose of small claims court is to resolve disputes quickly, informally and with little cost.

If you are involved in a dispute, every effort should be made to settle the dispute out of court, but if it is not possible to reach a settlement and you feel that you have a legitimate claim which can be satisfied for $500 or less, then you may want to consider filing your own lawsuit in a small claims court.

Any person 18-years-old or older may file a lawsuit in small claims court. Businesses, corporations and associations may also use the small claims court, however, no person or business may sue in this court more than four times in any twelve-month period.

Every Missouri county has at least one small claims court, and it is very important that you select the right county in which to file your claim. Selecting the right county will depend on the following conditions:

(1) If your suit is against an individual, you may file in the county where the person lives or you may file in the county where you live if the person can be found and notified in your county.

(2) If you sue a business, you may sue in the county where the business is located.

(3) You may sue in the county where the facts of the case occurred.

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After you have determined the county in which to sue, you must go to the clerk of the associate circuit court in that county to fill out a form called the petition. The court clerk is required to help you complete the petition.

You must supply the following information on the petition:

(1) The full name and address of the person or business that you claim owes you money;
(2) The amount of money you are demanding. If you claim interest on the amount, you must include such a request in the petition;
(3) A brief statement of the facts of the dispute explaining why you are suing.

At the time you file the petition, you must pay a filing fee to the court clerk. The fee is $5.00 for a claim of less than $100 and $10.00 for a claim of $100-$500. You must also pay the cost of serving the summons (official notice to appear in court) and a copy of the petition to the party you sue. The summons usually is served by certified mail and costs about $1.50. However, you may request that it be served by a sheriff or constable, if the person sued does not receive the summons by certified mail. Service by a sheriff or constable will cost you more.

Once you have completed the petition and paid the filing fee and cost of serving the summons, your suit is filed.

The time and date of the hearing will be determined by the court and both parties will be notified. If either party cannot appear in court on the date specified, a continuance may be requested. If the continuance is granted, both parties will be notified of the new date of the hearing.

Once the date of the hearing has been fixed, it is each party's responsibility to gather all evidence and notify witnesses, if any, of the date, time and place.

In preparing your case, either as plaintiff or defendant, write down the facts of the dispute in the order they occurred. Gather correspondence and other written material that will substantiate your claim. Contracts, guarantees, advertisements, cancelled checks, receipts, photos or the actual damaged goods may serve as evidence to help you prove your claim. Keep in mind that it is the plaintiff's responsibility to prove that the person or business sued owes him the money requested. It is the defendant's responsibility to offer all evidence which will show that the plaintiff's claim is not valid.

Witnesses also can help prove your case. If a witness to the dispute refuses to appear voluntarily, ask the court clerk to issue a subpoena (an order demanding him/her to appear).

When the time comes to present the case to the judge, the plaintiff should fully explain the basis for the claim. Present to the judge any receipts, documents, correspondence or other material which support your claim. If you have witnesses, ask the judge to let them testify. Although the judge may ask questions of both parties, it is the plaintiff's responsibility to present the facts necessary to prove his claim is valid. The burden of proving the claim is on the plaintiff. If the plaintiff is able to establish his claim, then the burden is shifted to the defendant to establish any reasons which may exist as to why he should not have to pay the plaintiff what he is asking.

After both sides have presented their case, the judge will make his decision as to how the dispute should be resolved. If either party feels that the judge's decision is not fair, he may appeal the decision. If an appeal is not made within ten days after the small claims court decision is rendered, then the judgment is final.

(See Curriculum Guide Objectives 0.1, 0.3, 0.5, 0.6, 0.7, 0.9, 0.10, 0.13, 3.9)

SMALL CLAIMS COURT

This material was originally developed by the Young Lawyers' Section of The Bar Association of Metropolitan St. Louis as a joint public service project of the Public Education Committe, the St. Louis Legal Aid Society and the Missouri Public Interest Research Group.

The material has been revised for statewide use by the Young Lawyers' Section of The Missouri Bar.

WHAT IS SMALL CLAIMS COURT & WHAT CAN IT DO?

In 1976, the Small Claims Court was begun in Missouri. It is part of the Magistrate Court which is in every county of Missouri. The Small Claims Court was established to make it easy for people to handle their small cases without lawyers. While the rules of the Small Claims Court are easier than in the regular Magistrate Courts of Missouri, there are certain rules which must be followed. By law, the judges and clerks are to help you represent yourself, but if you feel you need a lawyer to protect your interests, you may bring one.

WHO CAN SUE IN SMALL CLAIMS COURT?

In order to be able to file suit in Small Claims Court, you must sue on your own personal claim (a business may sue on its own claim). You cannot file a claim in Small Claims Court against someone because your mother, sister, or aunt is owed money by them. A person or company who has purchased the right to a claim (sometimes called an assignee) may not sue in Small Claims Court. You may only file four claims during any twelve months period.

WHAT YOU CAN SUE FOR - LIMITATIONS

The Small Claims Court is limited in what it can do for you. It can only handle claims for money and you can only get a judgment of up to $500.00. (The judge may, however, give you interest on the $500.00 at a 6% annual rate, and the amount you pay for court costs including collection costs, if you win.) This means that the court cannot force anyone to return property to you nor can it be used by landlords to evict tenants.

Some of the kinds of cases that may be brought in the Small Claims Court of Missouri are:

1. A tenant sues his former landlord for the return of a security deposit.
2. A homeowner asks for money damages from a roofer who did not repair the roof properly.
3. A car owner sues the driver of a car who hit him and damaged his car.

BEFORE YOU SUE - TRY TO SETTLE

Going to court is serious. It costs you time and money. You may lose, or you may be unable to collect the money the court says is owed you. The Small Claims Court does not pay you the money if you win. If your opponent does not voluntarily honor the court's judgment to pay, you must collect the money yourself using court procedures. Winning a claim in Small Claims Court is only the first legal step in col-

lecting the money that is owed you. There is a chapter in this booklet which will explain some of the ways the court will help you collect your money. If there is no chance of collecting your money by one of the ways suggested, you may want to think twice about filing suit in Small Claims Court.

Remember also that you will have to pay court costs or fees to use the Small Claims Court. Also, if the person you are suing files a legal claim against you (called a counterclaim) the judge may decide that *you owe him* some money. The courts are available to help you get what you think you are owed. However, it should be used as a last step. If the judge feels you are only using the Small Claims Court to harrass someone, your case may be thrown out (dismissed) and your court costs lost.

One way to avoid this is by trying to settle. Settlement attempts will help the judge think of you as a reasonable person. YOU HAVE NOTHING TO LOSE BY TRYING TO SETTLE. You usually should try to settle beofre you file suit.

One of the ways you may try to settle with the person you feel owes you money is to write him a letter and tell him how much you think he owes you and why. If you write a letter, make sure you keep a copy for yourself. If you have receipts to show how much money you paid to repair damage you feel he did, then send him copies of the receipts. Make sure you keep the original receipts. Later, if you do need to take your claim to Small Claims Court, you will still have your original receipts and a copy of the letter you sent to show the judge you have tried to be reasonable and are not suing the defendant just to cause him trouble.

If your problem involves a business, another way to try to settle before you sue is to take your problem to the Better Business Bureau in your area (Better Business Bureaus usually exist only in metropolitan areas). For the telephone number look in your directory under Better Business Bureau. The Bureau often acts as a middleman to settle claims by agreement of both parties. If you are not satisfied, you do not have to accept the other side's offer. You may also wish to report your problem to the Missouri Department of Consumer Affairs, 505 Missouri Boulevard, Jefferson City 65101 (telephone 314-751-4962), or to the Consumer Protection Division of the Missouri Attorney General's Office, Supreme Court Building, Jefferson City, Missouri 65101 (toll free number 800-392-8222).

PREPARING YOUR CLAIM

If you have been unable to settle your case, you may wish to file a claim in Small Claims Court. Think about how well you can represent yourself and protect your own interests. If you feel you need a lawyer, you may bring one. If you are unable to pay for legal help and are eligible for Legal Aid, you may wish to contact the legal services project in your area (Legal Aid Services are typically only available in metropolitan areas).

To file a claim in Small Claims Court you need:

a. The correct legal name of the person or business you wish to sue.

b. The correct address of the person you wish to sue.

c. If you are under 18 you will need to bring someone with you who is over 18 to act as your next friend (the person who will formally act in court for you).

d. You may also wish to bring some of your receipts or other papers which may help you explain what you want to ask for to the clerks.
e. The amount of the court costs in cash (some Small Claims Courts will only accept cash).
f. How to Get the Other Side Into Court

a. The Correct Name of the person or business you want to sue.

This is one of the most important and tricky rules of the Small Claims Court. You must have the correct legal name of the person or business you wish to sue or your claim may be dismissed.

If you have sued someone using the wrong legal name, even though you may win the case, you probably will be unable to collect the judgment.

If you are dealing with an individual, use his full name. For example, John Doe, not J. Doe.

The correct name of a business is a little more difficult to find. Write to the Secretary of State, State of Missouri, Jefferson City, Missouri 65101. A sample letter to the Secretary of State asking for what you need to know is in the appendix of this booklet. There is a $1.00 charge for this service which should be sent with the letter. The answer you receive from the Secretary of State will give you the correct business name. For example, the common name for a business may be Smith's Realty, Inc. If a business is incorporated, the answer will also include a name and address for the "registered agent" of the company. He is the person in a company who receives important mail and is the person to whom you can have the court address the summons. If the answer from the Secretary of State says that the business you asked about is not a corporation, the summons will read the name of the owner d/b/a the name of the business; for example, John Smith d/b/a Smith's Realty. (d/b/a is the abbreviation for doing business as). This is also the way to state the name of a business that is not listed with Secretary of State's Office, if you know the name of the owner. When you go to the Courthouse to file your claim, bring with you the answer you received from the Secretary of State. The clerks will help you decide what name to put on the summons.

b. Why the Correct Address is Important.

You must know the correct address of the person or company you wish to sue. The clerks cannot find it for you. In Small Claims Court the defendant is notified of the suit against him by registered mail. If you have given the clerks the wrong address, or if the person you are trying to sue does not accept the letter, the letter will be returned and you will have to pay more court costs to get the summons to the defendant, and wait more time before the case can be heard by the court.

You must also have the address of the defendant to make sure you are in the right Small Claims Court. This is a very important technical rule of the Small Claims Court

called "having the right venue." If you file your claim in the wrong court, you will have to refile in the right court and pay the filing fee again.

Here are some of the guidelines to follow in deciding which court is the right court.

1. You can use the Small Claims Court of the county where the defendant lives.
2. You can usually use the Small Claims Court of the county where you live if the defendant works in that county or has other regular business there.
3. If you wish to sue more than one person on the same claim (for example, you feel that two people are responsible for owing the same debt) file in the Small Claims Court of the county in which at least one of the defendants lives.
4. If the defendant is a business, you may use the court in any county where the defendant has an office.
5. You may also use the court in the county where the problem arose. For example, if your landlord refused to return your security deposit and the apartment and all dealings with the landlord were in the same county, you could use the court in that county.
6. The county of the registered agent is one place you can usually file your claim.

The easiest and most trouble free choice is to file your claim in the county in which the defendant lives. That way there is no question you have filed your claim in the right court. Ask the clerks if you are in the right court. Don't get angry with them if they tell you to go to another court; they are trying to save you time and money.

c. If You Are Under 18 Years Old -

Being under 18 years old does not mean that you cannot file suit in Small Claims Court. It does mean that you have one more step to take before filing your claim. You must bring someone over the age of 18 with you when you go to file your claim. This person must be willing to act as your "next friend" (the person who will formally act in court for you). The clerk of the court has the forms for you and your "next friend" to sign. A copy of the form called "Application for Appointment of Next Friend for Minor Plaintiff" is in the appendix of this section.

d. What To Ask For

Before you actually go to the courthouse to file your claim, you should have a good idea of how to explain your claim and the amount of money the defendant owes you. The clerks cannot tell you how much you are owed; that is not their job. They cannot decide how much you should ask for. The amount of money you ask for may depend on many things. For example, if you were in a car accident and you are suing someone for the damage done to your car, you might also ask for the amount of money you spent on transportation while your car was being repaired. However, if you are asking for your transportation costs, you should have the receipts to show how much you

spent. A good rule of thumb is to ask for the amount of money you spent or lost because of the claim. The clerks will help you word your complaint, but you should try yourself before you ask them for help. Bring any papers you have if you feel it will help you explain your problem to the clerks so that they may help you fill out the necessary forms.

e. Court Costs Or How Much Money You Should Bring To Court.

Small Claims Court is not free. You should have enough cash for the filing fee and mailing a registered letter when you go to complete the forms for your claim. As of August 1977, the cost of a registered letter was $2.48. Check with your post office. It is the policy of some courts that only cash will be accepted. The cost of filing a claim is $5.00 plus the cost of mailing a registered letter for claims under $100.00 and $10.00 plus the cost of mailing a registered letter for claims over $100.00.

If you cannot afford to pay the filing fee, you may ask the court to let you file your claim without paying costs. You must show the court that you do not have any money to pay. If you win, the defendant will be ordered to pay the court costs. An idea of the words you must write or say to the judge if you feel you are too poor to pay the court costs is in the appendix of the section called "Form to File Without Payment of Costs." You must be very poor to qualify for using the court without paying the fees. If you qualify and win, the defendant will be ordered to pay the court costs.

There may be extra costs to finally get your case in court. For example, if you are unable to serve the defendant by registered mail, it will cost additional money to have the sheriff or a special process server serve the defendant with your lawsuit.

f. How to Get the Other Side Into Court.

In Small Claims Court the defendant receives his summons by signing for a registered letter. If, for some reason the defendant does not sign for the letter, you may have to try to get official notice to him (called "serving or getting service on the defendant") in some other way. You may find out if the defendant signed the receipt for the letter before your court date by calling the court or going to the courthouse to look at the file. This should be done before your court date so that you may prepare to explain your claim to the judge or make arrangements to have the defendant served another way. One of the rules of the Small Claims Court is that the defendant must receive the summons 10 days before the court date. If the defendant did not receive the summons 10 days before the court date, you may still have to make arrangements to get the defendant served. Be prepared for this possibility.

If registered mail does not work you may get service on the person you are suing by arranging for a court official to hand the summons to the defendant or a member of his immediate family over the age of 15. This type of service (called "personal service") may be quite expensive. In some Small Claims Courts, the judges have appointed private

citizens to act as court officials (called special process servers). There is an extra fee for service by a special process server which, unlike the fees charged by the sheriffs and the constables, cannot be recovered if you win a judgment which includes court costs. The fees and the ways to get the sheriffs, constables, and special process servers are different in each court. You should ask the clerks of the Small Claims Court who you should contact to serve a summons for you and how much it will cost. Again, remember to bring the fee in cash to avoid extra trips to the courthouse.

If you are unable to get the summons served, you may ask the court to "continue your claim generally." Then, at a later date, within six months, when you think you can successfully get the summons served, your claim will be heard by the court. But, your claim must be heard within six months of the filing date or the court will dismiss it and you will have to start all over again.

FOR THE DEFENDANT

When you receive a summons to come to court, DO NOT THROW IT AWAY. READ IT AND BE SURE YOU UNDERSTAND IT. If you do not go to court, the judge may order you to pay the person who is suing you whatever he or she asked for. This is called a default judgment, and the plaintiff (the person suing you) can then use the court to collect from you. If you want to protect your rights, you show up in court on the day named on the summons. If you feel you need a lawyer to help you protect your rights, you may bring one.

After you have been served, if you think you owe the plaintiff money, but not as much as he is asking, you may try to settle with him. If you do agree on a settlement, make sure it is in writing and filed with the clerk. This will protect you from the plaintiff changing his mind, and also keep you from having to go to court. However, if you cannot agree on a settlement, you may go to court and force the plaintiff to prove his claim. Also, if you think you have a claim against the plaintiff the Small Claims Court has a way by which you can bring it at the same time you are being sued. This is called a counterclaim.

a. Counterclaims

A counterclaim is a way for the defendant to bring a claim against the plaintiff. The defendant does not have to pay the filing fee as the plaintiff did but must only pay the cost of mailing the counterclaim to the plaintiff. There are two types of counterclaims:

1. A counterclaim based on the same transaction on which you are being sued. For example, if you are sued for back rent, you might have a counterclaim for return of your security deposit.
2. A counterclaim based on a different transaction than the one on which you are being sued. For instance, if you are sued for back rent, you might counterclaim for return of money you loaned the landlord.

b. Counterclaim Based on the Same Transaction

If you have a claim such as the one in the first example given above, which is less than $500.00, go to court any time after you have been served with a summons but before the date of trial and explain your claim to the clerks. The clerk will help you complete a form called "Counterclaim Arising Out of the Same Transaction." A copy of the form is in the appendix of this booklet. The court will mail your counterclaim to the plaintiff. Bring a stamped envelope with you when you file your claim. If the counterclaim is filed less than 10 days before the court date stated on the defendant's summons, the case will probably be continued (postponed to a later date). Be sure to ask.

During the trial, if the judge discovers that the defendant has a counterclaim against the plaintiff based on the same transaction, he will tell the plaintiff and the defendant of the counterclaim. If you are the defendant and do not want to have the counterclaim decided at the time of trial, tell the judge and only the plaintiff's claim will be heard. At a later date, you may file a separate claim. If you are the plaintiff and it is discovered that the defendant has a counterclaim against you during the trial, you may either agree to have the counterclaim heard immediately or you may request a continuance to allow you time to prepare your defense to the counterclaim.

If your claim is over $500.00, and is based on the same transaction, both of you must agree to have it heard in Small Claims Court or you will have to bring it separately. Should either side not agree to this, the case will be heard in the regular Magistrate Court using the regular Magistrate Court rules. If the claim is over $5,000.00, however, it will be heard in the Circuit Court. The Circuit Court rules are very difficult and you should probably hire a lawyer. You have one more choice if you claim is over $500.00 and the other side does not agree to have it heard in Small Claims Court. You may limit your claim to $500.00. The claim will then stay in Small Claims Court, but you give up any right to the rest of your claim.

c. Counterclaim Based on a Different Transaction

If you have a counterclaim against the plaintiff which is based on a different set of facts, or transaction, for less than $500.00, you must file your counterclaim within 10 days of receiving your summons if you wish the claim to be heard at the same time as the plaintiff's claim against you. (If you do not file your claim within 10 days of receiving your summons you may still sue the other side in a separate suit in which you will be the plaintiff). The clerk will help you complete a form called "Counterclaim Not Arising from the Same Transaction." A copy of this form is in the Appendix of this section. As in the other type of counterclaim, your claim must be filed with the court at least 10 days before the court date on your summons if it is to be heard on the original setting date.

The plaintiff must also agree to have counterclaims for over $500.00 not based on the same transaction heard in the Small Claims Court, or else you will have to bring it

separately.

The defendant whose counterclaim was dismissed because it was over $500.00 can make his claim as a separate case in the regular Magistrate Court if the amount of the claim is under $5,000.00 or in the Circuit Court if it is over $5,000.00. A defendant may, however, limit his or her counterclaim to $500.00 and give up the right to all but the $500.00. If the defendant limits the counterclaim it probably can be decided in the Small Claims action.

PREPARING FOR YOUR DAY IN COURT

Whether you are the plaintiff asking for money in a petition or the defendant asking for money in a counterclaim, you must be prepared to prove you are owed the money you are asking for. If you are a defendant without a counterclaim you must try to convince the Judge you are right. Before you go to court you should organize all your papers (for example, estimates, bills, receipts, checks, photos and contracts) that support your side of the story and bring them with you on the day of court. In a case such as damage to a car or damage caused by a bad roof repair, you may consider taking pictures of the damage to show the Judge. Also, you should make sure that any witnesses you have that may help you prove your claim are going to be in court when you need them. If one of the witnesses refuses to testify you may have him subpoenaed. A subpoena (pronounced sopeana) is the legal method to require someone to be in court. The clerk will help you fill out the forms. You may serve the subpoena yourself or you may have anyone over the age of 18 serve it for you. It is probably best not to do it yourself. Don't get this confused with the summons served on the defendnant which must be served by a court official or special process server.

You should also prepare yourself for your day in court by actually visiting a session of the Small Claims Court. You will be less nervous if you know what will happen in a trial. Also, you will know where the court is and avoid being late for your court date.

After you have seen a session and feel you have an understanding of what will happen at your trial, practice presenting your claim as though you were trying to convince the Judge. This will also help you organize your papers in the order you want to show them to the Judge. Again, make sure your witnesses will be in court with you for your trial. It is not necessary that you be a lawyer to present your claim. Don't try to be. The Judge will help you bring out the facts of your case.

a. Continuances - Postponement of the Court Date

Either the plaintiff or the defendant can ask for a continuance of the court date. A continuance or postponement will only be granted if the cause is good and you can explain to the judge why it is not possible to proceed on the originally scheduled date. If one of your witnesses cannot be in court on the day your trial is set, but can be there on another day, you might consider asking for a continuance. If your witness won't cooperate, you

should consider getting a subpoena for him or getting a doctor's certificate if he is sick. Then, if he doesn't show up, the Judge will know that you did everything you could to be prepared. You are more likely to get a continuance if the delay is not your fault. You are also more likely to get the Judge to grant a continuance if you call the other side and warn them that you will ask for a continuance. If you can get the other side to agree to it, the Judge is more likely to grant a continuance. Whenever you get a continuance you should make sure the other side knows about it and is informed of the next court date.

OUT OF COURT SETTLEMENTS

At any time before the case is heard by the Judge, you may still settle your claim with the other side. However, make sure that you are completely satisfied with the agreement. The "consent judgment" (agreement) must be signed by both parties and filed with the clerk of the Small Claims Court. If you have filed a consent judgment and the other side stops paying as agreed, you may still use court procedures to collect the money owed you.

YOUR DAY IN COURT

On the day of court, be there early! The Judge will first have the bailiff, a special clerk, read a list of all the cases that are set that day. This is called reading the docket. If you are not there when your case is called, it can be thrown out, delayed to another day or decided without you. Any cases that are to be tried that day will be heard after the complete docket is read. Don't be impatient; try to stay calm. Try not to talk in the courtroom and smoking is not allowed in the courtroom.

There are no juries in the Small Claims Court. Your case will be heard by the Judge. When your case is called, walk up to the front of the courtroom. The Judge will ask the plaintiff to tell his side of the story first. Be thorough, and show the Judge any papers you have to support your claim as you go along. This will give him a better idea of what happened rather than handing him a stack of papers at the end of your explanation. He will then ask the plaintiff if he has any witnesses and will ask them questions. Don't interrupt the other side and don't argue with them. Talk to the Judge. You must convince him that you are right, not the other side. After the plaintiff has presented his claim, the defendant will then have a chance to tell his story. The judge will ask the defendant and his witnesses questions. When the Judge has heard both sides he will decide who is owed how much money, or he may wait to think about the case and mail you his decision. When the decision comes, do not argue with the Judge. If you disagree with his decision, you may appeal it to a higher court. Arguing with the Judge will do you no good, He will not change his mind after his decision has been made.

APPEAL

After the Judge has decided the case, each side will have the right to appeal the de-

cision within 10 days. That appeal will be to the Circuit Court. In your appeal, you have a right to a completely new trial, in front of a Judge or in front of a jury. The rules in the Circuit Court are technical and the Judge and clerks do not have the same duty to help you; without a lawyer, it will be hard to defend or represent yourself in the Circuit Court.

If you won in Small Claims Court an the defendant gets a lawyer for an appeal, you will especially want to get legal help. If you do not know a lawyer, look in the telephone book for a lawyer reference service. If no such service exists in your community, ask a relative or friend to recommend a lawyer. If you are poor, there may be a legal aid office in your area which may be able to help you.

There are costs which the person appealing the case must pay the Circuit Court. They may pay a small cost to the Magistrate Court and a large cost to the Circuit Court. Once the case is appealed, it is no longer a part of the Small Claims Court.

Even if one side appeals the case to the Circuit Court, the side that won in the Small Claims Court may still try to collect the money won in the Small Claims Court decision (called a judgment). If a person lost in Small Claims Court and appeals to the Circuit Court, he or she may put up a bond (called "posting a bond") with the court and stop the other side from collecting its money while the case is appealed. It is not necessary for the losing party to post a bond before they can appeal a case to the Circuit Court. It is necessary only if the loser wants to prevent the winner from attempting to collect the judgment. The clerk can tell you what you must do to have an appeal bond.

COLLECTING

After the Judge has decided in your favor, and you have waited 10 days from the date you received the Judge's decision, (the time allowed for the other side to decide whether to appeal the Judge's decision), it is time to start collecting.

There are several ways to collect, but all the procedures through the court cost money. The best and easiest way is to try to make arrangements for the other side to pay you, either in one lump sum or by paying you a little at a time; monthly, weekly, whatever way you can both agree upon. You lose nothing by trying to collect your money this way. Of course, if the loser agrees, you may be paid as soon as the Judge makes his decision.

If you cannot settle on a "payment schedule" or the other side stops paying as he agreed, you might think about one of the following ways to collect.

GARNISHING

A garnishment is a court procedure where debtors, or the person who owes you money according to a court judgment, pay the money they owe the losing side to the court. The court will then send the money it has collected to you to pay the judgment you won. You must pay a fee and request that the court issue a garnishment for this procedure. If your judgment states that the losing side is to pay court costs, this fee

can also be collected. If you do not collect the total amount owed you with one garnishment, you may file another one. The easiest garnishments to file are against a person's wages or bank accounts.

a. Garnishing wages

In order to file a garnishment on someone's wages to collect a judgment you need to know the name and address of that person's employer. A garnishment on wages usually lasts for a period of 90 days and at the end of that time the employer sends the money he has collected to the court. Only a part of an employee's wages can be withheld according to formulaes set by the laws of the State of Missouri. Also, according to law, if the person you are trying to garnish makes less than a certain amount of money, no money will be withheld for the garnishment. The clerk will help you complete the necessary forms to file a garnishment.

b. Garnishing a bank account

In order to garnish a person's bank account, you must know the name and address of the bank where the person banks who owes you money according to a judgement. If you have a cancelled check you paid to the opposing side in your lawsuit, the name of his bank will appear on the back of the check. If the bank account has another name on it, or you did not name the opposing side correctly in your case, the garnishment will not work. Garnishments on bank accounts usually last for a period of 30 days. At the end of the 30-day period, the bank will send the court the amount of money in the bank account up to the amount of the judgment plus the court costs and the cost of filing the garnishment. The clerk will help you complete the necessary forms to file a garnishment on a bank account.

OTHER PROCEDURES

There are several other court procedures available to you to try to collect money owed after you have the court's decision. These are far too complicated to try to explain in this booklet. ASK THE CLERKS TO HELP YOU. You may also be able to find a private attorney to help you collect if you have already gotten a judgment.

There are many legal rules which apply to collecting money owed by a court decision. The rules are for your protection as well as the protection of the person who owes the money. These rules are beyond the scope of this booklet. Again, if you have trouble protecting yourself, contact an attorney. Collecting the wrong way can get you into trouble.

SAMPLE CASE

Mr. Jones leased an apartment from Mr. Smith in St. Louis County in January for one year. In addition to the first month's rent of $100.00, he paid Mr. Smith $100.00 as a security deposit by writing him a check. His rent was due on the first of the month and each month until November he paid his rent on the first by sending Mr. Smith a check for $100.00. On December 1st he wrote Mr. Smith and explained that he would be moving to another apartment in St. Louis County and again sent Mr. Smith a check for $100.00 to pay rent for December.

When Mr. Jones moved on January 1st, both by telephone and by letter, he asked his landlord to return the $100.00 security deposit he had given him. Mr. Smith refused to return the $100.00 to Mr. Jones because Mr. Smith claimed the apartment had been damaged and the security deposit was used to make the necessary repairs.

Mr. Jones reported his problem to the Better Business Bureau. They contacted Mr. Smith who explained to Mr. Jones that the security deposit would not be returned because he had spent it on necessary repairs to the apartment Mr. Jones had rented. The Better Business Bureau offered to have a neutral person decide the dispute, but Mr. Jones and Mr. Smith would not agree to this.

Mr. Jones knew that Mr. Smith had a bank account because he had always written checks for his rent which Mr. Smith had deposited in his bank (the name of Mr. Smith's bank was on the back of Mr. Jones' cancelled checks). If he sued Mr. Smith in Small Claims Court he could probably collect any money the court said was owed him.

Mr. Jones then wrote to the Secretary of State in Jefferson City to find out if Mr. Smith was a member of a corporation or was doing business under another name. According to the answer he received from the Secretary of State, Mr. Smith was the owner of Smith's Realty Co. and his main office was at 7700 Clayton Road, in the County.

Mr. Jones decided to sue Mr. Smith in the Small Claims Court of the County of St. Louis. He went to the Courthouse and spoke to the clerks of the Small Claims Court. The clerks helped him fill out the necessary forms. The clerks asked Mr. Jones the full name of Mr. Smith's business and the correct address (which was the address the Secretary of State gave him). Mr. Jones was told the date his case would first be heard in court (this is known as the return date or the setting date). Mr. Jones then paid the cashier of the Small Claims Court $5.00 for a filing fee and $1.78 to have the summons (the notice that he was being sued) mailed to Mr. Smith by certified mail.

A few days later Mr. Smith received a registered letter from the court (his summons) which told him he had to be in court on a certain day and at a certain time regarding Mr. Jones' security deposit.

Mr. Smith called Mr. Jones and told him he had receipts for all the repairs that had to be made to the apartment and that in fact Mr. Jones owed him money. Mr. Jones still decided to have the Judge of the Small Claims Court decide who was owed what money.

Mr. Smith went to the Small Claims Court and told the clerks that he wished to file a counterclaim (a suit against Mr. Jones) for the additional money he had to pay for the repairs to the apartment. The clerks helped him fill out the proper forms which stated that Mr. Jones owed him $100.00 more for repairs. He was told that the case would be heard on the same day that appeared on his summons. Mr. Smith paid the cashier $1.78

for the cost of mailing the counterclaim to Mr. Jones.

Mr. Smith collected all his receipts for repairs to the apartment Mr. Jones had rented. He called all the repairmen and asked them if they would be willing to testify that all the repairs were necessary and that the apartment had been damaged. One of the repairmen said he would be unable to go to court on that date.

Mr. Smith then called Mr. Jones and told him he would have to ask the court for a continuance in order to have all of his witnesses in court.

On the day of court, Mr. Smith told the Judge that one of his witnesses could not be there and requested that the Judge give him more time (a continuance). The case was set for the next Friday.

Mr. Smith then asked the clerk to issue a subpoena (the legal way to require someone to come to court to testify). The clerks helped him fill out the forms and explained that he could give the subpoena to the repairman himself or have anyone over the age of 18 give it to the repairman (this is called serving a subpoena). The subpoena told the repairman when to come to court to testify for Mr. Smith and Mr. Smith had his 18 year old nephew serve it.

Mr. Jones prepared to go to court on the new setting date by finding all his cancelled checks including the one he had given Mr. Smith for the security deposit and the copy of the letter he sent to Mr. Smith asking him to return the security deposit. All of his friends who helped him move into Mr. Smith's apartment and who knew what the apartment looked like when Mr. Jones moved out agreed to testify that all the apartment needed was a new coat of paint.

On the court date the Judge asked Mr. Jones to tell his story first and asked him questions about the apartment. Mr. Jones was also asked to show the Judge his receipts and the letter he had sent to Mr. Smith. The Judge also questioned Mr. Jones' friends about the condition of the apartment.

Mr. Smith was then asked to tell his side of what happened. He showed the Judge the receipts for the repair bills and answered all the Judge's questions about the condition of the apartment. The Judge then questioned Mr. Smith's witnesses.

After listening to both sides of the story and listening to all of the witnesses, the Judge decided that Mr. Smith owed Mr. Jones $80.00 plus the money it cost Mr. Jones to file suit. Mr. Jones was given a judgment (the decision of the court) for $80.00 plus interest and court costs.

Ten days after the Judge had decided Mr. Jones was owed $80.00 plus costs, Mr. Jones contacted Mr. Smith and asked him when he would pay the money. Mr. Smith refused to pay.

Mr. Jones decided he would garnish (a court procedure for collecting a judgment) Mr. Smith's bank account. He went to the Small Claims Court and told the clerks the name of Mr. Smith's bank and its address and asked them to help him fill out the necessary forms. He then paid the cashier the money for filing the garnishment.

When the bank received the papers notifying them that Mr. Smith's bank account had been garnished, they sent the $80.00 the Judge awarded Mr. Jones plus the money Mr. Jones paid to file the suit and the garnishment to the court on the day the court said the money must be sent. The court then sent Mr. Jones a check for the full amount.

PLAINTIFF CHECKLIST

We have prepared this checklist for the plaintiff to use in conjunction with this booklet.

_____Try to settle

_____Find correct name and address of the person to be sued

_____Write to the Secretary of State for business name

_____Decide which Small Claims Court to file in

Things to bring to court when the case is filed

_____Answer to the letter written to the Secretary of State

_____Correct name and address of person to be sued

_____Papers to help explain the claim to the clerks, especially any leases or contracts

_____Pencil and paper to write down information

_____Court costs in cash

Before leaving the courthouse

_____Copies of all forms completed to the clerks regarding the claim

Case Number _____ Court date _____ at ___ m.

Courtroom location _____ Clerk's phone No. _____

Preparing for Court

_____Check court file to find out if defendant has been served

If defendant is not served, new summons requested

New Court date _____

_____All witnesses have been contacted and agree to come to court

_____All necessary subpoenas have been served

_____All receipts and other papers are in order of presentation

_____Prepare to defend any counterclaims

DEFENDANT CHECKLIST

After you have received the summons

_____Read and understand the summons

_____Try to settle if you think you owe the money

_____Prepare to defend yourself against the plaintiff's claim

_____Decide if you have a counterclaim against the plaintiff you want to bring at this time

If you have a counterclaim

_____Decide if your counterclaim is based on the same facts or if you must file it within 10 days of receipt of your summons, for counterclaims not based on the same facts

_____Take all papers necessary to help you explain your counterclaim to the clerks.

_____Bring a stamped envelope with you

_____Bring a pencil and paper to write down information given you by the clerks

New Court Date and time _____

Preparing for court

_____Make sure you know where the courtroom is.
My trial will be in room _____ of the Courthouse

_____All witnesses have been contacted and agree to come to court

_____All necessary subpoenas have been served

_____All papers are in the order of presentation

_____I have notes of all necessary facts

Court costs

This is to keep a record of the money you have paid the court regarding your claim. This will be important if you win. When you collect your judgment you may also collect the cost of bringing your suit to small claims court.

Filing fee	_____	Date paid _____
First summons	_____	_____
Additional summons	_____	_____
	_____	_____
Garnishment fees	_____	_____
	_____	_____

Amount of judgment	_____	Date of judgment
Interest on judgment	_____	_____
Total	_____	

Total of court costs and judgment _____

Credits

_____ Date paid _____

_____ Date paid _____

_____ Date paid _____

If you are the defendant and you win your counterclaim, this sheet should help you keep a record of how much you are owed. You will probably also be able to collect any money you spend trying to collect your judgment.

Judgment	_____	Date of judgment _____
Interest on judgment	_____	
Total	_____	
Credits	_____	Date paid _____
	_____	_____
	_____	_____
	_____	_____

Court costs

Garnishment fee _____

_____

_____

John Jones
0000Main Street
St. Louis County, Missouri 63000

Secretary of State
State of Missouri
Jefferson City, Missouri 65101

RE: Smith Realty Co.
Joe Smith - owner
1000 Main Street
St. Louis County, Missouri

Dear Sir:

I would like to know if Smith Realty is a corporation registered with your office, or if Joe Smith has filed any papers as the owner of a business. I would also appreciate receiving a copy of any such papers and the name and address of the registered agent of the company if one is listed.

Enclosed is my check for $1.00 to cover the cost of this service.

Thank you very much.

Sincerely,

John Jones

SMALL CLAIMS COURT
IN THE MAGISTRATE COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

_____
Plaintiff

Vs. _____ No.

_____
Defendant

Request for execution

Please issue execution and garnishment in aid thereof in the above styled cause. Judgment was rendered for_____ and against_____ on the_____day of _____, 19___, in the sum of $ _____ plus costs and there is $_____ still due and owing on that judgment.

The_____ is employed at_____ _____,located at _____.

The _____has a bank account/savings account in his/her/their name at_____ bank, located at_____ savings and loan, located at _____ .

_____
Signature of Judgment Creditor

_____
Judge

FORM TO FILE WITHOUT PAYMENT OF COSTS

I am **John Jones** and I live at **2100 Delmar** in the City of **St. Louis**. I think I have a good claim to file in Small Claims Court but I do not have any money to pay the court.

My total income is **$185.00** each month. I support myself and one child on this money. My expenses for rent and food are **$150.00**. This only leaves me **$35.00** each month for heat and everything else. I promise what I said here is true.

_____
JOHN JONES

SMALL CLAIMS COURT
IN THE MAGISTRATE COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

_____
Plaintiff

Vs. _____ Case Number

_____
Defendant

Satisfaction of Judgment

Comes now the plaintiff/defendant and acknowledges that his judgment in the above claim has been satisfied in full.

_____
Plaintiff/Defendant Signature

SMALL CLAIMS COURT
IN THE MAGISTRATE COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

_____
Plaintiff

Vs. _____ Case Number

_____
Defendant

Dismissal

Comes now the_____ and dismisses his Claim/counterclaim against the _____ with/without prejudice at plaintiff's/defendant' costs.

_____
Plaintiff/Defendant Signature

SMALL CLAIMS COURT
IN THE MAGISTRATE COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

_____
Plaintiff

_____
Street Address

_____
City State Zip Code

_____
Telephone

Vs.

_____
Defendant

_____
Street Address

_____
City State Zip Code

_____
Telephone

_____
Case Number

_____
Amount Claimed

_____
Date and time of hearing

Petition

The plaintiff states he has a claim against the defendant in the amount of $_____. The claim arose on or about the _____ day of _____, 19___, as a result of the following events:

_____

_____

_____

The plaintiff states that the information contained in this petition is true and correct to the best of his knowledge, that he is not an assingee of this claim and that he has not filed more than three other claims in any Missouri Small Claims Court during the previous twelve months.

Plaintiff understands that should he be successful in this action and obtain judgment, and if defendant does not appeal within ten days, this judgment becomes final. The plaintiff cannot commence another action involving the same parties and issues.

_____
Signature of plaintiff

Keep a copy of this petition and bring it to court

SMALL CLAIMS COURT
IN THE MAGISTRATE COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

_____
Plaintiff

By _____
Next Friend

_____
Street Address

_____
City State Zip Code

_____
Telephone

Vs.

_____
Defendant

_____
Street Address

_____
City State Zip Code

_____
Telephone

_____
Case Number

_____
Amount Claimed

_____
Date and time of hearing

Petition for minor

Comes now the plaintiff,_____, a minor, by his/her next friend_____ and states:
1. He has a claim against the defendant in the amount of $_____.
2. The claim arose on or about the____day of_____, 19____, as a result of the following events:

_____

_____

The plaintiff states that the information contained in this petition is true and correct to the best of his knowledge, that he is not an assignee of this claim and that he has not filed more than three other claims in any Missouri Small Claims Court during the previous twelve months.

Plaintiff understands that should he be successful in this action and obtain judgment, and if defendant does not appeal within ten days, this judgment becomes final. The plaintiff cannot commence another action involving the same parties and issues.

_____
Signature of Plaintiff

_____
Signature of Next Friend

Keep a copy of this petition and bring it to court

SMALL CLAIMS COURT
IN THE MAGISTRATE COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

_____
Plaintiff

_____
Street Address

_____
City State Zip Code

_____
Telephone

Vs.

_____
Defendant

_____
Street Address

_____
City State Zip Code

_____
Telephone

_____
Case Number

_____
Amount Claimed

_____
Date and time of hearing

Counterclaim arising out of same transaction

The defendant states he has a claim against the plaintiff in the amount of $_____. The counterclaim arose on or about the____day of_____, 19____, as a result of the following events:

_____

_____

_____

_____

The defendant states that the information contained in the counterclaim is true and correct to the best of his knowledge. Defendant understands that should he be successful in this action and obtain judgment, and if plaintiff does not appeal within ten days, this judgment becomes final. The defendant cannot commence another action involving the same parites and issues.

_____
Signature of defendant

Keep a copy of this counterclaim and bring it to court
Read carefully instructions on reverse side of this form

SMALL CLAIMS COURT
IN THE MAGISTRATE COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

_____
Plaintiff

_____
Street Address

_____
City State Zip Code

_____
Telephone

Vs.

_____
Defendant

_____
Street Address

_____
City State Zip Code

_____
Telephone

_____
Case Number

_____
Amount Claimed

_____
Date and time of hearing

Counterclaim not arising out of same transaction

The defendant states he has a claim against the plaintiff in the amount of $_____. The counterclaim arose on or about the_____day of_____, 19____, as a result of the following events:

_____

_____

The defendant states that the information contained in the counterclaim is true and correct to the best of his knowledge, that he is not an assignee of this counterclaim, and that he has not filed more than three other claims in any Missouri Small Claims Court during the previous twelve months.

Defendant understands that should he be successful in this action and obtain judgment, and if plaintiff does not appeal within ten days, this judgment becomes final. The defendant cannot commence another action involving the same parties and issues.

_____
Signature of defendant

Keep a copy of this counterclaim and bring it to court
Read carefully instructions on reverse side of this form

INSTRUCTIONS TO PLAINTIFF

1. By this form, the defendant is suing you.
2. a. You must appear at the date and the time set for hearing.
   b. You should bring with you all books, papers, witnesses and evidence you have to establish your defense.
   c. At your request the clerk will issue subpoena for any witness you may need.
3. Rules of evidence do not apply and you may defend this action with or without the assistance of an attorney.

INSTRUCTIONS TO PLAINTIFF

1. By this form, the defendant is suing you.
2. a. You must appear at the date and at the time set for hearing.
   b. You should bring with you all books, papers, witnesses and evdience you have to establish your defense.
   c. At your request the clerk will issue subpoena for any witness you may need.
3. Rules of evidence do not apply and you may defend this action with or without the assistance of an attorney.

SMALL CLAIMS COURT
IN THE MAGISTRATE COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

_____
Plaintiff

Vs. _____
Case Number

_____
Defendant

Application for appointment of guardian ad litem for minor defendant

Comes now_____, and shows to the court that_____ has no appointed or acting guardian, and requests that_____ be appointed as guardian ad litem for the purpose of defending the above captioned action.

_____
Signature

Order appointing guardian ad litem

Now on this_____day of_____, 19___, before me appears_____and presents a written application and request for appointment of_____ _____ as guardian ad litem for the purpose of defending in this court the above lawsuit filed against this minor and the written consent of the proposed guardian ad litem having been filed with the court, and, it appearing that said minor has no appointed or acting guardian,

It is hereby considered, ordered and adjudged that_____ _____be and is hereby appointed as guardian ad litem for _____ for the purpose of defending the above captioned action.

_____
Judge

SMALL CLAIMS COURT
IN THE MAGISTRATE COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

_____
Plaintiff

Vs. _____
Case Number

_____
Defendant

SUMMONS

The State of Missouri to Defendant_____
_____ _____ ____
_____ _____
the Magistrate Court, Assignment Division
You are summoned and required to appear in person in _____of the Civil Courts building, located at 12th & Market Street City of St. Louis, Missouri, on the_____ day of_____, 19___, at the hour of

If you fail to appear, a judgment may be entered against you for the amount asked in the attached petition but not to exceed $500, plus interest and costs.

THIS ACTION HAS BEEN FILED UNDER THE SMALL CLAIMS COURT ACT. RULES OF EVIDENCE DO NOT APPLY AND YOU MAY DEFEND THIS ACTION WITHOUT OR WITH THE ASSISTANCE OF AN ATTORNEY.

Given under my hand this _____day of_____, 19_____.

_____
Clerk of the Court

Read carefully instructions on reverse side
RETURN

_____
_____
_____
_____
_____

The reverse side of the summons shall state as follows:

INSTRUCTIONS TO DEFENDANT

1. If you do not wish to oppose plaintiff's claim you may:
   a. Contact plaintiff and make an out-of-court settlement with the plaintiff before the hearing date and file with the clerk of the court a dismissal of the case signed by the plaintiff or
   b. Make no appearance at the hearing. In that case the plaintiff may be given a default judgment against you.
2. If you wish to oppose the claim:
   a. You must appear on the date and at the time set for hearing.
   b. You should bring with you all books, papers, witnesses, and evidence you have to establish your defense.
   c. At your request the clerk will issue subpoena for any witness you may need (you must order the subpoena as soon as possible and before the hearing date).
3. If you have a claim against a plaintiff, it is a counterclaim. You may file a counterclaim.
   NOTE: Forms and assistance are available from the clerk of the court which issued this summons.
4. If the counterclaim did not arise out of the same transaction or occurrence as plaintiff's claim against you, and if you desire to file such a counterclaim, then:
   a. You must file your counterclaim with the court within ten days after you receive this summons.
   b. To do this you must personally appear before the clerk of the court.
   c. The clerk will assist you in preparing the counterclaim.
5. If you are a member of the Armed Services of the USA, please advise the court immediately upon receipt of this summons.
6. Rules of evidence do not apply and you may defend this action with or without the assistance of an attorney.
7. A pamphlet explaining the small claims court may be obtained from the clerk of the court issuing the summons.

PETITION

SMALL CLAIMS COURT

IN THE CIRCUIT COURT, ASSOCIATE DIVISION OF_____COUNTY, MISSOURI

_____
Plaintiff

_____
Street Address

_____
City State Zip Code

_____
Telephone

VS.

_____
Defendant

_____
Street Address

_____
City State Zip Code

_____
Telephone

_____
Case Number

_____
Amount Claimed

_____
Date and Time of Hearing

The Plaintiff states he has a claim against the Defendant in the amount of $_____ The claim arose on or about the _____ day of _____, 19____, as a result of the following events:

_____

_____

_____

_____

_____

_____

The Plaintiff states that the information contained in this Petition is true and correct to the best of his knowledge, that he is not an assignee of this claim and that he has not filed more than three other claims in any Missouri Small Claims Court during the previous twelve months.

Plaintiff understands that should he be successful in this action and obtain judgment, and if Defendant does not appeal within ten days, this judgment becomes final. The Plaintiff cannot commence another action involving the same parties and issues.

_____
Signature of Plaintiff

KEEP A COPY OF THIS PETITION AND BRING IT TO COURT

PETITION

SMALL CLAIMS COURT

Filed for Record this
day of A. D., 19
at o'clock minutes M.
Recorded in Book at page

Recorder.

By ---------- Deputy.

Recorder's Fee, $----------

COUNTERCLAIM NOT ARISING OUT OF SAME TRANSACTION

SMALL CLAIMS COURT

IN THE _____ ASSOCIATE CIRCUIT COURT _____ COUNTY, MISSOURI

_____
Plaintiff

_____
Street Address

_____
City State Zip Code

_____
Telephone

VS.

_____
Defendant

_____
Street Address

_____
City State Zip Code

_____
Telephone

_____
Case Number

_____
Amount Claimed

_____
Date and Time of Hearing

The Defendant states he has a claim against the Plaintiff in the amount of $_____. The counterclaim arose on or about the _____ day of _____, 19____, as a result of the following events:

_____

_____

_____

_____

_____

_____

The Defendant states that the information contained in the counterclaim is true and correct to the best of his knowledge, that he is not an assignee of this counterclaim, and that he has not filed more than three other claims in any Missouri Small Claims Court during the previous twelve months .

Defendant understands that should he be successful in this action and obtain judgment, and if Plaintiff does not appeal within ten days, this judgment becomes final. The Defendant cannot commence another action involving the same parties and issues.

_____
Signature of Defendant

KEEP A COPY OF THIS COUNTERCLAIM AND BRING IT TO COURT

READ CAREFULLY INSTRUCTIONS ON REVERSE SIDE OF THIS FORM

COUNTERCLAIM NOT ARISING OUT OF SAME TRANSACTION SMALL CLAIMS COURT

Filed for Record this day of A. D., 19
at o'clock minutes M
Recorded in Book at page

Recorder.

By ---------- Deputy

Recorder's Fee, $----------

INSTRUCTIONS TO PLAINTIFF

1. By this form, the defendant is suing you.

2. a. You must appear at the date and at the time set for hearing.

   b. You should bring with you all books, papers, witnesses and evidence you have to establish your defense.

   c. At your request the clerk will issue subpoena for any witness you may need.

3. Rules of evidence do not apply and you may defend this action with or without the assistance of an attorney.

REQUEST FOR EXECUTION

SMALL CLAIMS COURT

IN THE _____ ASSOCIATE CIRCUIT COURT _____ COUNTY, MISSOURI

_____
Plaintiff

VS.

_____
Defendant

No._____

Please issue execution and garnishment in aid thereof in the above styled cause. Judgment was rendered for _____

and against _____ on the _____ day of _____, 19____, in the sum of $_____ plus costs and there is $_____ still due and owing on that judgment.

The _____ is employed at _____ _____, located at _____

The _____ has a bank account/savings account in his/her/their name at _____ bank, located at _____ savings and loan, located at _____.

_____
Signature of Judgment Creditor

REQUEST FOR EXECUTION

SMALL CLAIMS COURT

Filed for Record this
day of A. D., 19
at o'clock minutes M.
Recorded in Book at page .

Recorder.

By ---------- Deputy.

Recorder's Fee, $----------

SATISFACTION OF JUDGMENT

SMALL CLAIMS COURT

IN THE _____ ASSOCIATE CIRCUIT COURT _____ COUNTY, MISSOURI

_____
Plaintiff

VS.

_____
Defendant

_____
Case Number

Comes now the Plaintiff/Defendant and acknowledges that his judgment in the above claim has been satisfied in full.

_____
Plaintiff/Defendant Signature

SATISFACTION OF JUDGMENT

SMALL CLAIMS COURT

Filed for Record this
day of A. D., 19
at o'clock minutes M.
Recorded in Book at page .

Recorder.

By ---------- Deputy.

Recorder's Fee, $----------